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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JAY PATEL, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

vs.

SUNPOWER CORPORATION, THOMAS
H. WERNER, and CHARLES D.
BOYNTON,

Defendants

Case No.

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

JURY TRIAL DEMANDED

Plaintiff Jay Patel ("Plaintiff"), by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff's information and belief is based upon, among other things, his counsel's investigation, which includes without limitation: (a) review and analysis of regulatory filings made by SunPower Corporation ("SunPower" or the "Company"), with the United States ("U.S.") Securities and Exchange Commission ("SEC"); (b) review and analysis of press releases and media reports issued by and disseminated by SunPower; and (c) review of other publicly available information concerning SunPower.

NATURE OF THE ACTION AND OVERVIEW

1
2 1. This is a class action on behalf of persons and entities that acquired SunPower securities
3 between February 17, 2016, and August 9, 2016, inclusive (the “Class Period”), against the Defendants,
4 seeking to pursue remedies under the Securities Exchange Act of 1934 (the “Exchange Act”).

5 2. SunPower is an energy company that delivers solar solutions to residential, commercial,
6 and power plant customers. The Company’s offerings purportedly include: solar module technology
7 and solar power systems that are designed to generate electricity over a system life typically exceeding
8 25 years; integrated Smart Energy software solutions; installation, construction, and ongoing
9 maintenance, and monitoring services; and financing solutions that provide customers a variety of
10 options for purchasing or leasing solar products.
11

12 3. On August 9, 2016, SunPower issued a press release announcing its second quarter 2016
13 financial results. Therein, the Company disclosed the existence of several factors negatively impacting
14 the Company’s performance, including “customers adopting a longer-term timeline for project
15 completion,” “aggressive [Power Purchase Agreement (“PPA”)] pricing by new market entrants,” and
16 “continued market disruption in the YieldCo environment.” The Company also announced a
17 manufacturing realignment which the Company stated would result in restructuring charges totaling
18 \$30-\$45 million, a substantial portion of which would be incurred in the third quarter of 2016. Finally,
19 the Company disclosed that, as a result of these “challenges,” it was substantially decreasing its fiscal
20 year 2016 guidance—expecting a net loss of \$175 million to \$125 million, rather than the earlier-
21 forecasted net income of \$0 to \$50 million.
22

23 4. On this news, SunPower’s stock price fell \$4.47 per share, or 30%, to close at \$10.31 per
24 share on August 10, 2016, on unusually heavy trading volume.
25

26 5. Throughout the Class Period, Defendants made materially false and/or misleading
27 statements, as well as failed to disclose material adverse facts about the Company’s business,
28

1 operations, and prospects. Specifically, Defendants made false and/or misleading statements and/or
2 failed to disclose that: (i) a substantial number of the Company's customers were adopting a longer-
3 term timeline for project completion; (ii) the Company's near-term economic returns were deteriorating
4 due to aggressive PPA pricing by new market entrants; (iii) market disruption in the YieldCo
5 environment was impacting the Company's assumptions related to monetizing deferred profits; (iv) as
6 such, demand for the Company's products was significantly declining; (v) in response, the Company
7 would implement a manufacturing realignment that would result in significant restructuring charges;
8 (vi) as such, the Company's fiscal year 2016 guidance was overstated; and (vii) as a result of the
9 foregoing, Defendants' statements about SunPower's business, operations, and prospects, were false
10 and misleading and/or lacked a reasonable basis.
11

12 6. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in
13 the market value of the Company's securities, Plaintiff and other Class members have suffered
14 significant losses and damages.
15

16 **JURISDICTION AND VENUE**

17 7. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act (15
18 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-
19 5).
20

21 8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §
22 1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).
23

24 9. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and Section 27
25 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in furtherance of the alleged fraud or the
26 effects of the fraud have occurred in this Judicial District. Many of the acts charged herein, including
27 the dissemination of materially false and/or misleading information, occurred in substantial part in this
28

Judicial District. In addition, SunPower's principal executive offices are located within this Judicial District.

10. In connection with the acts, transactions, and conduct alleged herein, Defendants directly and indirectly used the means and instrumentalities of interstate commerce, including the United States mail, interstate telephone communications, and the facilities of a national securities exchange.

PARTIES

11. Plaintiff, as set forth in the accompanying certification, incorporated by reference herein, purchased SunPower securities during the Class Period, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

12. Defendant SunPower is a Delaware corporation with its principal executive offices located at 77 Rio Robles, San Jose, California 95134. SunPower's common stock trades on the NASDAQ Stock Market ("NASDAQ") under the symbol "SPWR."

13. Defendant Thomas H. Werner ("Werner") was, at all relevant times, the President, Chief Executive Officer ("CEO"), and a Director of SunPower.

14. Defendant Charles D. Boynton ("Boynton") was, at all relevant times, Executive Vice President and Chief Financial Officer ("CFO") of SunPower.

15. Defendants Werner and Boynton are collectively referred to hereinafter as the "Individual Defendants."

SUBSTANTIVE ALLEGATIONS

Background

16. SunPower is an energy company that delivers solar solutions to residential, commercial, and power plant customers. The Company's offerings purportedly include: solar module technology and solar power systems that are designed to generate electricity over a system life typically exceeding

25 years; integrated Smart Energy software solutions; installation, construction, and ongoing maintenance, and monitoring services; and financing solutions that provide customers a variety of options for purchasing or leasing solar products.

**Materially False and Misleading
Statements Issued During the Class Period**

17. The Class Period begins on February 17, 2016, when SunPower issued a press release entitled “SunPower Reports Fourth Quarter and Fiscal Year 2015 Results.” Therein, the Company stated, in relevant part:

SAN JOSE, Calif., February 17, 2016 - SunPower Corp. (NASDAQ: SPWR) today announced financial results for its fourth quarter and fiscal year ended Jan. 3, 2016.

(\$ Millions, except percentages and per-share data)	4th Quarter 2015	3rd Quarter 2015	4th Quarter 2014
GAAP revenue	\$374.4	\$380.2	\$1,164.2
GAAP gross margin	5.4%	16.5%	22.3%
GAAP net income (loss)	\$(127.6)	\$(56.3)	\$134.7
GAAP net income (loss) per diluted share	\$(0.93)	\$(0.41)	\$0.83
Non-GAAP revenue ¹	\$1,363.9	\$441.4	\$609.7
Non-GAAP gross margin ¹	28.8%	17.7%	20.4%
Non-GAAP net income ¹	\$270.4	\$20.5	\$39.4
Non-GAAP net income per diluted share ¹	\$1.73	\$0.13	\$0.26
EBITDA ¹	\$379.9	\$54.2	\$84.9

¹ Information about SunPower's use of non-GAAP financial information is provided under "Use of Non-GAAP Financial Measures" below.

“2015 was a transformational year for the solar industry as increasing demand, favorable policy developments and broad global support for renewables created strong industry growth fundamentals. SunPower benefited from these trends as we exceeded our forecasts and closed out the year with record fourth quarter and full year non-GAAP 2015 results. During the year, we executed on our technology roadmaps, added new products and launched our joint YieldCo vehicle 8point3 Energy Partners. We are well positioned to capitalize on the continued growing adoption of solar in North America as well as key international markets such as China

1 and Latin America. We also expanded our global power plant footprint
2 while completing the world's largest solar power plant, located in
3 California. In distributed generation, we made further investments in
4 Smart Energy and launched a range of complete customer solutions for the
5 commercial market that will significantly reduce cost while improving
6 performance," said Tom Werner, SunPower president and CEO.
7 "Upstream, we again delivered record output and yield while ramping our
8 new Fab 4 cell manufacturing facility for volume production in 2016. We
9 made strong progress on our cost reduction roadmaps and in the fourth
10 quarter announced the launch of our new lower cost, high efficiency
11 Performance Series product line which enhances our ability to rapidly
12 expand SunPower's global footprint with significantly lower capital cost.

13 "In the power plant segment for the fourth quarter, we successfully met
14 our project commitments, added to our pipeline and further built out our
15 U.S. HoldCo asset base, improving visibility for drop downs to 8point3
16 Energy Partners in 2016. Specifically, our 135-megawatt (MW) Quinto
17 project achieved commercial operation during the quarter and is now
18 generating energy for 8point3 Energy Partners. Our quarterly power plant
19 segment results benefited from strong Engineering, Procurement and
20 Construction (EPC) execution as our 50-MW Hooper project for Xcel was
21 completed a quarter ahead of schedule. We also commenced construction
22 on our 100-MW project for NV Energy in Nevada and recently dedicated
23 our second 15-MW project at Nellis Air Force base. Going forward, we
24 see significant upside opportunity in the U.S. power plant market as the
25 recent extension of the U.S. federal solar investment tax credit (ITC)
26 provides a sustainable, long term market structure to support further
27 growth. Internationally, we continue to expand our footprint into new
28 markets and recently announced our first project in Mexico, a 36-MW
project for Aeropuertos Del Sureste (ASUR), a leading airport operator in
the country. This power purchase agreement (PPA) is one of the first
significant solar PPAs in Mexico and extends our position as a leader in
international solar development. Construction of this project will begin
this year and is expected to be completed in 2017.

"We also executed well in our residential business. In North America, our
performance was solid as our fourth quarter results exceeded plan, we
gained market share and broadened our leasing footprint as megawatt
installed growth exceeded 45 percent year over year. Additionally, based
on our fourth quarter bookings, we expect continued strong residential
demand in 2016. Finally, we also expanded our utility partnership strategy
during the quarter as we announced an innovative agreement with TXU
Energy to bring SunPower solar solutions to the Texas market.

In our commercial segment, we are well positioned for 2016, having
added projects to our backlog and building our pipeline to over \$1 billion.
As we announced during the quarter, we launched our Helix platform, the

1 world's first fully-integrated solar solution for commercial customers.
2 Designed for the rooftop, carport and commercial ground-mount markets,
3 Helix delivers significantly lower costs and improved reliability while
4 reducing installation times. We are currently shipping our first systems,
5 and interest from both new and existing customers is significant. Finally,
6 we were pleased to announce that we recently completed our first
commercial project drop down to 8point3 Energy Partners. This 20-MW
project for Kern County School District consists of 27 carports at various
locations across the district and will be constructed in three phases with
completion scheduled before the end of 2016," Werner concluded.

7 "Solid execution across all segments, along with the ability to leverage our
8 development capabilities, enabled us to post record results for the fourth
9 quarter and 2015 fiscal year," said Chuck Boynton, SunPower CFO. "Our
10 balance sheet remains strong as we successfully executed a new
11 convertible bond offering and recently renewed our revolver including
12 increasing its size to \$300 million. With an approximately \$1 billion cash
13 position and our undrawn revolver, we have the resources we need to
continue our long term growth initiatives. Finally, we prudently managed
our working capital during the quarter as we improved our performance in
a number of key cash metrics while adding assets to our HoldCo base."

14 Fourth quarter and fiscal year 2015 GAAP and non-GAAP results reflect a
15 charge of \$33 million, or approximately 20 cents on a non-GAAP basis,
16 related to the contracted sale, at current market based rates, of above
market priced polysilicon acquired through a long term supply agreement.

17 Additionally, fourth quarter fiscal 2015 non-GAAP results include net
18 adjustments that, in the aggregate, increased non-GAAP net income by
19 \$398.0 million, including \$394.1 million related to 8point3 Energy
20 Partners, \$13.1 million related to utility and power plant projects, \$2.0
21 million related to sale of operating lease assets, \$16.5 million related to
stock-based compensation expense, \$1.7 million related to the 8point3
Energy Partners initial public offering, and \$3.3 million related to other
adjustments, offset by \$32.7 million related to tax effect.

22 **Financial Outlook**

23 Given strong global demand as well as a favorable policy environment, the
24 company remains very confident that it can achieve its long term strategic
25 and financial goals by leveraging its flexible business model to drive
26 sustainable growth. With the recent extension of the ITC, the company
anticipates increasing its investment in the United States while
maintaining its global go-to-market focus.

27 The company's fourth quarter financial results reflected a shift of
28 approximately \$65 million in EBITDA originally forecasted to be

1 recognized in fiscal year 2016. This shift was primarily due to earlier than
2 forecasted project completions in power plants, accelerated recognition of
3 residential leases and earlier than anticipated benefits related to 8point3
4 Energy Partners. As a result of this approximately \$65 million EBITDA
5 shift, the company now expects 2016 EBITDA to be in the range of \$450
6 million to \$500 million compared to previous guidance of \$515 million to
7 \$565 million. For 2017, the company believes that with the ITC extension,
8 further investment in the U.S. market and a strong global project pipeline,
9 it is well positioned to sustainably grow its EBITDA.

10 For fiscal year 2016, the company's non-GAAP expectations are as
11 follows: revenue of \$3.2 billion to \$3.4 billion, gross margin of 14 percent
12 to 16 percent, capital expenditures of \$210 million to \$240 million and
13 gigawatts deployed in the range of 1.7 GW to 2.0 GW. On a GAAP basis,
14 the company expects 2016 revenue of \$2.2 billion to \$2.4 billion, gross
15 margin of 17 percent to 19 percent and net income of \$0 million to \$50
16 million. Fiscal year 2016 GAAP guidance includes the impact of the
17 company's HoldCo strategy and deferrals due to real estate accounting.

18 The company's first quarter fiscal 2016 non-GAAP guidance is as follows:
19 revenue of \$290 million to \$340 million, gross margin of 12 percent to 13
20 percent, EBITDA of \$0 to \$25 million and megawatts deployed in the
21 range of 315 MW to 340 MW. On a GAAP basis, the company expects
22 revenue of \$280 million to \$330 million, gross margin of 11 percent to 12
23 percent and net loss of \$115 million to \$90 million. First quarter 2016
24 GAAP guidance includes the impact of the company's HoldCo strategy
25 and deferrals due to real estate accounting.

26 18. On February 19, 2016, SunPower filed its Annual Report with the SEC on Form 10-K
27 for the fiscal year ended January 3, 2016. The Company's Form 10-K was signed by Defendant
28 Boynton, and reaffirmed the Company's financial results announced in the press release issued on
February 17, 2016.

19 19. On May 5, 2016, the Company issued a press release entitled "SunPower Reports First
20 Quarter 2016 Results." Therein, the Company stated, in relevant part:

21 **SAN JOSE, Calif., May 5, 2016** - SunPower Corp. (NASDAQ: SPWR)
22 today announced financial results for its first fiscal quarter ended Apr. 3,
23 2016.

(\$ Millions, except percentages and per-share data)	1st Quarter 2016	4th Quarter 2015	1st Quarter 2015
GAAP revenue	\$384.9	\$374.4	\$440.9
GAAP gross margin	13.4%	5.4%	20.6%
GAAP net loss	\$(85.4)	\$(127.6)	\$(9.6)
GAAP net loss per diluted share	\$(0.62)	\$(0.93)	\$(0.07)
Non-GAAP revenue ¹	\$433.6	\$1,363.9	\$430.6
Non-GAAP gross margin ¹	13.6%	28.8%	20.5%
Non-GAAP net income (loss) ¹	\$(41.2)	\$270.4	\$19.7
Non-GAAP net income (loss) per diluted share ¹	\$(0.30)	\$1.73	\$0.13
EBITDA ¹	\$6.3	\$379.9	\$58.8

¹ Information about SunPower's use of non-GAAP financial information, including a reconciliation to U.S. GAAP, is provided under "Use of Non-GAAP Financial Measures" below.

"Our first quarter results reflect solid execution against our long term strategy," said Tom Werner, SunPower president and CEO. "With the recent launch of our Helix™ and SunPower Equinox™ complete solutions for the commercial and residential markets respectively, we are now in a position to offer standardized plug and play solutions across all primary solar applications from large scale power plants to individual homes and businesses. This positions SunPower very well to facilitate the adoption of solar power as a mainstream energy technology. In our upstream solar cell and panel manufacturing operations, we delivered strong yields and record panel output, and we continue to ramp volume at our new Fab 4 cell manufacturing facility. During the quarter, we also began commercial shipments of our new, lower cost, high efficiency Performance Series panel product line and we are on track to ramp volume significantly starting in the third quarter.

"In our power plant business, consistent with our strong, historical delivery execution, we continued construction on a number of key U.S. projects slated for completion during the second half of 2016, including our 100-megawatt (MW) project for NV Energy, the 102-MW Henrietta power plant and our 68-MW project for Stanford University. Additionally, we achieved commercial operation on our 50-MW Hooper project for Xcel Energy, a project currently owned by 8point3 Energy Partners. SunPower also achieved notable international success during the first quarter when we were awarded approximately 500-MW of power purchase agreements in Mexico's first electricity auction. This award comprised approximately 25 percent of the awarded solar capacity, or around 20 percent of the entire awarded energy across all resources, and demonstrates the increasing cost competitiveness of wholesale solar power versus competing technologies. We also expect to begin construction of our second solar power plant project in Chile later this year with a capacity of approximately 100-MW. With a pipeline of more than 2.5

1 gigawatts (GW) in Latin America and more than 14-GW globally, we see
2 significant long term opportunity in the power plant segment.

3 “Our residential business continued its strong performance as we met or
4 exceeded our quarterly goals across all regions. In North America, we
5 grew recognized megawatts by more than 50 percent year over year,
6 gained market share, and launched our SunPower Equinox complete
7 residential solution in the U.S. We believe this fully integrated product
8 generates up to 70 percent more lifetime energy with 70 percent fewer
9 visible components compared with a conventional residential system,
while reducing installation time and improving quality and aesthetics. We
also added a key residential channel partnership during the quarter
including an exclusive co-marketing agreement with AT&T. With solid
residential industry fundamentals, particularly in the U.S, we expect
continued strong performance in this segment during 2016.

10 “We also made significant progress in our commercial business during the
11 quarter, adding projects to our pipeline which stands over \$1 billion. The
12 rollout of our new Helix platform is going very well as we installed our
13 first commercial system during the quarter. As a result, we expect to
14 double our commercial market share in the U.S. this year. Internationally,
15 we also had a significant win in Japan during the quarter, where we
booked a 17-MW supply contract with a leading Japanese commercial
rooftop project developer,” Werner concluded.

16 “Overall, we executed well in the first quarter as we achieved our
17 development targets and saw solid performance across our segments,” said
18 Chuck Boynton, SunPower CFO. “We continued to add to our HoldCo
19 asset base with a number of large projects scheduled for completion in the
20 second half of the year. We exited the quarter with a strong balance sheet
21 including significant liquidity through our \$300 million revolver, which
22 remains undrawn. In addition, we were pleased to close our most recent
23 financing, a \$200 million construction revolver that will be used to finance
24 our anticipated growth, primarily in the commercial sector.”

25 Additionally, first quarter fiscal 2016 non-GAAP results include net
26 adjustments that, in the aggregate, decreased non-GAAP net loss by \$44.2
27 million, including \$10.7 million related to 8point3 Energy Partners, \$3.6
28 million related to utility and power plant projects, \$3.1 million related to
sale of operating lease assets, \$16.5 million related to stock-based
compensation expense, \$8.6 million related to other adjustments, and \$1.7
million related to tax effect.

26 Financial Outlook

27 The company’s second quarter fiscal 2016 non-GAAP guidance is as
28 follows: revenue of \$310 million to \$360 million, gross margin of 12

1 percent to 14 percent, EBITDA of \$0 to \$25 million and megawatts
2 deployed in the range of 360 MW to 385 MW. On a GAAP basis, the
3 company expects revenue of \$290 million to \$340 million, gross margin of
4 10 percent to 12 percent and net loss of \$90 million to \$65 million. Second
5 quarter 2016 GAAP guidance includes the impact of the company's
6 HoldCo asset strategy and revenue and timing deferrals due to real estate
7 accounting.

8 For fiscal year 2016, the company's non-GAAP financial guidance is
9 unchanged. Non-GAAP expectations are as follows: revenue of \$3.2
10 billion to \$3.4 billion, gross margin of 14 percent to 16 percent, EBITDA
11 of \$450 million to \$500 million, capital expenditures of \$210 million to
12 \$260 million and gigawatts deployed in the range of 1.6 GW to 1.9 GW.

13 On a GAAP basis, the company now expects 2016 revenue of \$2.8 billion
14 to \$3.0 billion, gross margin of 13 percent to 15 percent and net income of
15 \$0 million to \$50 million. Fiscal year 2016 GAAP guidance includes the
16 impact of the company's HoldCo asset strategy and revenue and timing
17 deferrals due to real estate accounting.

18 20. On May 6, 2016, SunPower filed its Quarterly Report with the SEC on Form 10-Q for
19 the fiscal quarter ended April 3, 2016. The Company's Form 10-Q was signed by Defendant Boynton,
20 and reaffirmed the Company's financial results previously announced on May 5, 2016.

21 21. The above statements contained in ¶¶ 17-20 were materially false and/or misleading, as
22 well as failed to disclose material adverse facts about the Company's business, operations, and
23 prospects. Specifically, these statements were false and/or misleading statements and/or failed to
24 disclose that: (i) a substantial number of the Company's customers were adopting a longer-term
25 timeline for project completion; (ii) the Company's near-term economic returns were deteriorating due
26 to aggressive PPA pricing by new market entrants; (iii) market disruption in the YieldCo environment
27 was impacting the Company's assumptions related to monetizing deferred profits; (iv) as such, demand
28 for the Company's products was significantly declining; (v) in response, the Company would
implement a manufacturing realignment that would result in significant restructuring charges; (vi) as
such, the Company's fiscal year 2016 guidance was overstated; and (vii) as a result of the foregoing,

1 Defendants' statements about SunPower's business, operations, and prospects, were false and
2 misleading and/or lacked a reasonable basis.

3 **Disclosures at the End of the Class Period**

4 22. On August 9, 2016, SunPower issued a press release announcing its second quarter 2016
5 financial results. Therein, the Company identified multiple factors negatively impacting the Company's
6 performance and forecasts for the second half of 2016:

7
8 [W]e see a number of near-term industry challenges, primarily in our
9 power plant segment, that we expect to impact our business and financial
10 performance in the second half of 2016. The extension of the Investment
11 Tax Credit, as well as the bonus depreciation credit, while beneficial to the
12 long-term health of the industry, has reduced the urgency to complete new
13 solar projects by the end of 2016, with many customers adopting a longer-
14 term timeline for project completion. Additionally, near-term economic
15 returns have deteriorated due to aggressive PPA pricing by new market
entrants, including a number of large, global independent power
companies. We are also seeing customer project IRRs rising in the near
term as buyers have increased their hurdle rates due to industry conditions.
Finally, the continued market disruption in the YieldCo environment has
impacted our assumptions related to monetizing deferred profits.

16 In response, the Company also announced a manufacturing realignment:

17
18 Additionally, we are realigning our manufacturing operations to increase
19 the relative mix of X-Series capacity due to expected strong customer
20 demand in our DG business as well as adjusting our panel assembly
21 capacity to be closer to our core markets. We plan to utilize equipment
22 from some of our older solar cell manufacturing lines in Fab 2 to
23 debottleneck capacity of our latest generation technology in order to
24 increase the supply of X-Series panels. These initiatives will enable us to
25 increase X-Series output by up to 100 MW by the end of 2017.
Additionally, in connection with the realignment of our power plant
segment principally around our core markets, we have made the decision
to close our Philippine panel assembly facility and transfer the equipment
to our latest generation, lower cost facilities in Mexico. This change will
optimize our supply chain and move final panel assembly closer to our key
markets.

26 * * *

27
28 As a result of the announced realignment, the company expects the
following:

- Workforce reduction of approximately 15 percent or 1,200 employees, primarily related to its Philippine facility closure
- Restructuring charges totaling \$30-\$45 million
- Substantial portion of charges to be incurred in the third quarter of 2016 with more than 50 percent of the total charges to be cash
- Annual operating expense reductions of approximately 10 percent

Finally, the Company announced that as a result of the “challenges” described above, it was negatively revising its fiscal year 2016 guidance:

Financial Outlook

As a result of the challenges described above, the company is updating its previously disclosed fiscal year 2016 guidance, as well as providing selected forecasts for fiscal year 2017.

On a GAAP basis, the company now expects 2016 revenue of \$2.8 billion to \$3.0 billion, gross margin of 9.5 percent to 11.5 percent and net loss of \$175 million to \$125 million. Fiscal year 2016 GAAP guidance includes the impact of the company’s HoldCo asset strategy and revenue and timing deferrals due to real estate accounting.

The company’s updated 2016 non-GAAP financial guidance is as follows: revenue of \$3.0 billion to \$3.2 billion, gross margin of 10.5 percent to 12.5 percent, EBITDA of \$275 million to \$325 million, capital expenditures of \$225 million to \$245 million and gigawatts deployed in the range of 1.45 GW to 1.65 GW.

For 2017, the company expects a GAAP net loss of \$200 million to \$100 million and EBITDA in the range of \$300 million to \$400 million. The company expects that at the lower end of the guidance range, 2017 EBITDA would be generated almost entirely from the company’s DG business and believes that with the announced realignment, it will be well positioned to capitalize on the long term growth potential in the global power plant market.

The company’s third quarter fiscal 2016 GAAP guidance is as follows: revenue of \$700 million to \$800 million, gross margin of 14.5 percent to 16.5 percent and net loss of \$5 million to net income of \$20 million. Third quarter 2016 GAAP guidance includes the impact of the company’s HoldCo asset strategy and revenue and timing deferrals due to real estate

1 accounting. On a non-GAAP basis, the company expects revenue of \$750
2 million to \$850 million, gross margin of 16.5 percent to 18.5 percent,
3 EBITDA of \$115 million to \$140 million and megawatts deployed in the
4 range of 380 MW to 420 MW.

5 23. On this news, SunPower's stock price fell \$4.47 per share, or 30%, to close at \$10.31 per
6 share on August 10, 2016, on unusually heavy trading volume.

7 **CLASS ACTION ALLEGATIONS**

8 24. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure
9 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that acquired SunPower
10 securities during the Class Period and who were damaged thereby (the "Class"). Excluded from the
11 Class are Defendants, the officers and directors of the Company, at all relevant times, members of their
12 immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which
13 Defendants have or had a controlling interest.

14 25. The members of the Class are so numerous that joinder of all members is impracticable.
15 Throughout the Class Period, SunPower's common stock actively traded on the NASDAQ. While the
16 exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through
17 appropriate discovery, Plaintiff believes that there are at least hundreds or thousands of members in the
18 proposed Class. Millions of SunPower shares were traded publicly during the Class Period on the
19 NASDAQ. As of August 5, 2016, SunPower had 138,150,656 shares of common stock outstanding.
20 Record owners and other members of the Class may be identified from records maintained by
21 SunPower or its transfer agent and may be notified of the pendency of this action by mail, using the
22 form of notice similar to that customarily used in securities class actions.

23 26. Plaintiff's claims are typical of the claims of the members of the Class as all members of
24 the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is
25 complained of herein.
26
27
28

1 27. Plaintiff will fairly and adequately protect the interests of the members of the Class and
2 has retained counsel competent and experienced in class and securities litigation.

3 28. Common questions of law and fact exist as to all members of the Class and predominate
4 over any questions solely affecting individual members of the Class. Among the questions of law and
5 fact common to the Class are:

6 (a) whether the federal securities laws were violated by Defendants' acts as alleged
7 herein;
8

9 (b) whether statements made by Defendants to the investing public during the Class
10 Period omitted and/or misrepresented material facts about the business, operations, and prospects of
11 SunPower; and

12 (c) to what extent the members of the Class have sustained damages and the proper
13 measure of damages.
14

15 29. A class action is superior to all other available methods for the fair and efficient
16 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the
17 damages suffered by individual Class members may be relatively small, the expense and burden of
18 individual litigation makes it impossible for members of the Class to individually redress the wrongs
19 done to them. There will be no difficulty in the management of this action as a class action.
20

21 **UNDISCLOSED ADVERSE FACTS**

22 30. The market for SunPower's securities was open, well-developed and efficient at all
23 relevant times. As a result of these materially false and/or misleading statements, and/or failures to
24 disclose, SunPower's securities traded at artificially inflated prices during the Class Period. Plaintiff
25 and other members of the Class purchased or otherwise acquired SunPower's securities relying upon
26 the integrity of the market price of the Company's securities and market information relating to
27 SunPower, and have been damaged thereby.
28

1 31. During the Class Period, Defendants materially misled the investing public, thereby
2 inflating the price of SunPower's securities, by publicly issuing false and/or misleading statements
3 and/or omitting to disclose material facts necessary to make Defendants' statements, as set forth herein,
4 not false and/or misleading. The statements and omissions were materially false and/or misleading
5 because they failed to disclose material adverse information and/or misrepresented the truth about
6 SunPower's business, operations, and prospects as alleged herein.
7

8 32. At all relevant times, the material misrepresentations and omissions particularized in this
9 Complaint directly or proximately caused or were a substantial contributing cause of the damages
10 sustained by Plaintiff and other members of the Class. As described herein, during the Class Period,
11 Defendants made or caused to be made a series of materially false and/or misleading statements about
12 SunPower's financial well-being and prospects. These material misstatements and/or omissions had the
13 cause and effect of creating in the market an unrealistically positive assessment of the Company and its
14 financial well-being and prospects, thus causing the Company's securities to be overvalued and
15 artificially inflated at all relevant times. Defendants' materially false and/or misleading statements
16 during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's
17 securities at artificially inflated prices, thus causing the damages complained of herein when the truth
18 was revealed.
19
20

21 **LOSS CAUSATION**

22 33. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the
23 economic loss suffered by Plaintiff and the Class.
24

25 34. During the Class Period, Plaintiff and the Class purchased SunPower's securities at
26 artificially inflated prices and were damaged thereby. The price of the Company's securities
27 significantly declined when the misrepresentations made to the market, and/or the information alleged
28

1 herein to have been concealed from the market, and/or the effects thereof, were revealed, causing
2 investors' losses.

3 **SCIENTER ALLEGATIONS**

4 35. As alleged herein, Defendants acted with scienter since Defendants knew that the public
5 documents and statements issued or disseminated in the name of the Company were materially false
6 and/or misleading; knew that such statements or documents would be issued or disseminated to the
7 investing public; and knowingly and substantially participated or acquiesced in the issuance or
8 dissemination of such statements or documents as primary violations of the federal securities laws. As
9 set forth elsewhere herein in detail, Defendants, by virtue of their receipt of information reflecting the
10 true facts regarding SunPower, his/her control over, and/or receipt and/or modification of SunPower's
11 allegedly materially misleading misstatements and/or their associations with the Company which made
12 them privy to confidential proprietary information concerning SunPower, participated in the fraudulent
13 scheme alleged herein.
14
15

16 **APPLICABILITY OF PRESUMPTION OF RELIANCE**
17 **(FRAUD-ON-THE-MARKET DOCTRINE)**

18 36. The market for SunPower's securities was open, well-developed and efficient at all
19 relevant times. As a result of the materially false and/or misleading statements and/or failures to
20 disclose, SunPower's securities traded at artificially inflated prices during the Class Period. On March
21 17, 2016, the Company's stock price closed at a Class Period high of \$24.74 per share. Plaintiff and
22 other members of the Class purchased or otherwise acquired the Company's securities relying upon the
23 integrity of the market price of SunPower's securities and market information relating to SunPower,
24 and have been damaged thereby.
25

26 37. During the Class Period, the artificial inflation of SunPower's stock was caused by the
27 material misrepresentations and/or omissions particularized in this Complaint causing the damages
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1 sustained by Plaintiff and other members of the Class. As described herein, during the Class Period,
2 Defendants made or caused to be made a series of materially false and/or misleading statements about
3 SunPower's business, prospects, and operations. These material misstatements and/or omissions created
4 an unrealistically positive assessment of SunPower and its business, operations, and prospects, thus
5 causing the price of the Company's securities to be artificially inflated at all relevant times, and when
6 disclosed, negatively affected the value of the Company stock. Defendants' materially false and/or
7 misleading statements during the Class Period resulted in Plaintiff and other members of the Class
8 purchasing the Company's securities at such artificially inflated prices, and each of them has been
9 damaged as a result.
10

11 38. At all relevant times, the market for SunPower's securities was an efficient market for
12 the following reasons, among others:
13

14 (a) SunPower stock met the requirements for listing, and was listed and actively
15 traded on the NASDAQ, a highly efficient and automated market;

16 (b) As a regulated issuer, SunPower filed periodic public reports with the SEC
17 and/or the NASDAQ;

18 (c) SunPower regularly communicated with public investors *via* established market
19 communication mechanisms, including through regular dissemination of press releases on the national
20 circuits of major newswire services and through other wide-ranging public disclosures, such as
21 communications with the financial press and other similar reporting services; and/or
22

23 (d) SunPower was followed by securities analysts employed by brokerage firms who
24 wrote reports about the Company, and these reports were distributed to the sales force and certain
25 customers of their respective brokerage firms. Each of these reports was publicly available and entered
26 the public marketplace.
27
28

1 39. As a result of the foregoing, the market for SunPower's securities promptly digested
2 current information regarding SunPower from all publicly available sources and reflected such
3 information in SunPower's stock price. Under these circumstances, all purchasers of SunPower's
4 securities during the Class Period suffered similar injury through their purchase of SunPower's
5 securities at artificially inflated prices and a presumption of reliance applies.

6 40. A Class-wide presumption of reliance is also appropriate in this action under the
7 Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972),
8 because the Class's claims are, in large part, grounded on Defendants' material misstatements and/or
9 omissions. Because this action involves Defendants' failure to disclose material adverse information
10 regarding the Company's business operations and financial prospects—information that Defendants
11 were obligated to disclose—positive proof of reliance is not a prerequisite to recovery. All that is
12 necessary is that the facts withheld be material in the sense that a reasonable investor might have
13 considered them important in making investment decisions. Given the importance of the Class Period
14 material misstatements and omissions set forth above, that requirement is satisfied here.

15
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17 **NO SAFE HARBOR**

18 41. The statutory safe harbor provided for forward-looking statements under certain
19 circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The
20 statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In
21 addition, to the extent certain of the statements alleged to be false may be characterized as forward
22 looking, they were not identified as "forward-looking statements" when made and there were no
23 meaningful cautionary statements identifying important factors that could cause actual results to differ
24 materially from those in the purportedly forward-looking statements. In the alternative, to the extent
25 that the statutory safe harbor is determined to apply to any forward-looking statements pleaded herein,
26 Defendants are liable for those false forward looking statements because at the time each of those
27
28

1 forward-looking statements was made, the speaker had actual knowledge that the forward-looking
2 statement was materially false or misleading, and/or the forward-looking statement was authorized or
3 approved by an executive officer of SunPower who knew that the statement was false when made.

4 **FIRST CLAIM**
5 **Violation of Section 10(b) of The Exchange Act and**
6 **Rule 10b-5 Promulgated Thereunder**
7 **Against All Defendants**

8 42. Plaintiff repeats and realleges each and every allegation contained above as if fully set
9 forth herein.

10 43. During the Class Period, Defendants carried out a plan, scheme and course of conduct
11 which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including
12 Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the
13 Class to purchase SunPower's securities at artificially inflated prices. In furtherance of this unlawful
14 scheme, plan and course of conduct, defendants, and each of them, took the actions set forth herein.

15 44. Defendants (i) employed devices, schemes, and artifices to defraud; (ii) made untrue
16 statements of material fact and/or omitted to state material facts necessary to make the statements not
17 misleading; and (iii) engaged in acts, practices, and a course of business which operated as a fraud and
18 deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market
19 prices for SunPower's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All
20 Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or
21 as controlling persons as alleged below.

22 45. Defendants, individually and in concert, directly and indirectly, by the use, means or
23 instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous
24 course of conduct to conceal adverse material information about SunPower's financial well-being and
25 prospects, as specified herein.
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1 46. These defendants employed devices, schemes and artifices to defraud, while in
2 possession of material adverse non-public information and engaged in acts, practices, and a course of
3 conduct as alleged herein in an effort to assure investors of SunPower's value and performance and
4 continued substantial growth, which included the making of, or the participation in the making of,
5 untrue statements of material facts and/or omitting to state material facts necessary in order to make the
6 statements made about SunPower and its business operations and future prospects in light of the
7 circumstances under which they were made, not misleading, as set forth more particularly herein, and
8 engaged in transactions, practices and a course of business which operated as a fraud and deceit upon
9 the purchasers of the Company's securities during the Class Period.
10

11 47. Each of the Individual Defendants' primary liability, and controlling person liability,
12 arises from the following facts: (i) the Individual Defendants were high-level executives and/or
13 directors at the Company during the Class Period and members of the Company's management team or
14 had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities as a
15 senior officer and/or director of the Company, was privy to and participated in the creation,
16 development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii)
17 each of these defendants enjoyed significant personal contact and familiarity with the other defendants
18 and was advised of, and had access to, other members of the Company's management team, internal
19 reports and other data and information about the Company's finances, operations, and sales at all
20 relevant times; and (iv) each of these defendants was aware of the Company's dissemination of
21 information to the investing public which they knew and/or recklessly disregarded was materially false
22 and misleading.
23
24

25 48. The defendants had actual knowledge of the misrepresentations and/or omissions of
26 material facts set forth herein, or acted with reckless disregard for the truth in that they failed to
27 ascertain and to disclose such facts, even though such facts were available to them. Such defendants'
28

1 material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose
2 and effect of concealing SunPower's financial well-being and prospects from the investing public and
3 supporting the artificially inflated price of its securities. As demonstrated by Defendants'
4 overstatements and/or misstatements of the Company's business, operations, financial well-being, and
5 prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the
6 misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by
7 deliberately refraining from taking those steps necessary to discover whether those statements were
8 false or misleading.
9

10 49. As a result of the dissemination of the materially false and/or misleading information
11 and/or failure to disclose material facts, as set forth above, the market price of SunPower's securities
12 was artificially inflated during the Class Period. In ignorance of the fact that market prices of the
13 Company's securities were artificially inflated, and relying directly or indirectly on the false and
14 misleading statements made by Defendants, or upon the integrity of the market in which the securities
15 trades, and/or in the absence of material adverse information that was known to or recklessly
16 disregarded by Defendants, but not disclosed in public statements by Defendants during the Class
17 Period, Plaintiff and the other members of the Class acquired SunPower's securities during the Class
18 Period at artificially high prices and were damaged thereby.
19
20

21 50. At the time of said misrepresentations and/or omissions, Plaintiff and other members of
22 the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other
23 members of the Class and the marketplace known the truth regarding the problems that SunPower was
24 experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class would
25 not have purchased or otherwise acquired their SunPower securities, or, if they had acquired such
26 securities during the Class Period, they would not have done so at the artificially inflated prices which
27 they paid.
28

1 51. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act
2 and Rule 10b-5 promulgated thereunder.

3 52. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other
4 members of the Class suffered damages in connection with their respective purchases and sales of the
5 Company's securities during the Class Period.

6
7 **SECOND CLAIM**
8 **Violation of Section 20(a) of The Exchange Act**
9 **Against the Individual Defendants**

10 53. Plaintiff repeats and realleges each and every allegation contained above as if fully set
11 forth herein.

12 54. The Individual Defendants acted as controlling persons of SunPower within the meaning
13 of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their
14 ownership and contractual rights, participation in and/or awareness of the Company's operations and/or
15 intimate knowledge of the false financial statements filed by the Company with the SEC and
16 disseminated to the investing public, the Individual Defendants had the power to influence and control
17 and did influence and control, directly or indirectly, the decision-making of the Company, including the
18 content and dissemination of the various statements which Plaintiff contends are false and misleading.
19 The Individual Defendants were provided with or had unlimited access to copies of the Company's
20 reports, press releases, public filings and other statements alleged by Plaintiff to be misleading prior to
21 and/or shortly after these statements were issued and had the ability to prevent the issuance of the
22 statements or cause the statements to be corrected.

23
24 55. In particular, each of these Defendants had direct and supervisory involvement in the
25 day-to-day operations of the Company and, therefore, is presumed to have had the power to control or
26 influence the particular transactions giving rise to the securities violations as alleged herein, and
27 exercised the same.
28

56. As set forth above, SunPower and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and/or omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

A. Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

D. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: August 26, 2016

Respectfully submitted,

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